



# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Joint Powers Authority Establishing San Joaquin County Regional Rail Commission, and Nomination of City of Lodi Representative to the Commission.

**MEETING DATE:** April 5, 1995

**PREPARED BY:** City Manager

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**RECOMMENDED ACTION:** That the City Council approve the Joint Powers Agreement Establishing San Joaquin County Regional Rail Commission, and Nominate a City of Lodi representative to the Commission.

**BACKGROUND INFORMATION:** The San Joaquin Council of Governments (COG), at its regular meeting of February 28, 1995, approved the attached (Exhibit A) Joint Powers Agreement (JPA) to establish the Regional Rail Commission. A rail commission appointed by COG has been in operation for some months now. However, as the approach of the start-up of the demonstration service over the Altamont Pass draws near, it is critical that an agency such as this JPA be formed which has both planning and operational authority. The proposed commission will consist of five members appointed by the COG Board of Directors upon the consideration of the recommendation of COG's Executive Committee from nominees submitted by the cities and the County of San Joaquin. The commission will have the authority to operate rail service within the County.

A representative of the County's Public Works Department will be in attendance at Wednesday night's meeting to answer any questions Councilmembers may have.

**FUNDING:** None at this time

Respectfully submitted,

Thomas A. Peterson  
City Manager

TAP:br

Attachment

APPROVED: \_\_\_\_\_

THOMAS A. PETERSON  
City Manager

JOINT POWERS AGREEMENT  
ESTABLISHING THE SAN JOAQUIN COUNTY  
REGIONAL RAIL COMMISSION

THIS AGREEMENT is entered into as of the \_\_\_\_ of \_\_\_\_\_  
19\_\_, by and among the Parties hereto.

W I T N E S S E T H:

WHEREAS, the Act authorizes two (2) or more public agencies  
to jointly exercise any power common to them; and

WHEREAS, the County of San Joaquin and the incorporated  
cities therein possess in common the powers to plan for, own,  
maintain, operate, lease, contract for, and operate railroad  
service and facilities for the purpose of transporting passengers  
within and outside their respective boundaries; and

WHEREAS, the County of San Joaquin and the incorporated  
cities therein, by virtue of California Public Utilities Code  
sections 99234.9 and 99400, possess in common the authority to  
file claims with the regional transportation planning agency, the  
COG, for rail passenger service operation expenditures and  
capital improvement expenditures, including construction and  
maintenance of intermodal transportation facilities; and

WHEREAS, the County of San Joaquin and the incorporated  
cities therein, by virtue of California Public Utilities Code  
section 99260.5, possess in common the authority to file with  
COG, claims for payment to a railroad corporation subject to the  
jurisdiction of the Public Utilities Commission and engage in the  
transportation of persons for operating losses incurred in the  
transportation of persons within the County of San Joaquin and  
the incorporated cities therein and to or from the same; and

WHEREAS, the people residing within the incorporated and  
unincorporated areas of San Joaquin County have an interest in  
rail transportation within the County, to destinations outside  
the County, and to facilitate the movement of people through the  
County; and

WHEREAS, the continued growth and extensive development  
within the incorporated and unincorporated areas of San Joaquin  
County evidences a need to create an independent regional agency  
capable of dealing with rail transportation issues and problems.

NOW, THEREFORE, it is mutually agreed as follows:

1. DEFINITIONS

As used herein, the following words have the following  
meanings:

1.A. "Act" means chapter 5 (commencing at section 6500) of division 7 of title 1 of the California Government Code.

1.B. "Auditor-Controller" means the Auditor-Controller of the County and of the Commission.

1.C. "Board of Supervisors" means the Board of Supervisors of the County.

1.D. "City Councils" means the respective City Councils of the Cities who are Parties.

1.E. "COG" means the San Joaquin County Council of Governments.

1.F. "COG Board" means the governing Board of COG.

1.G. "Commission" means the San Joaquin Regional Rail Commission, a California joint powers agency, created by this Agreement.

1.H. "County" means the County of San Joaquin.

1.I. "Elected Officials" means any member of the governing body of a Party to this Agreement.

1.J. "Party" means any public agency which pursuant to governing body authority has executed this Agreement.

1.K. "Parties" means all of the public agencies who pursuant to governing body authority have executed this Agreement.

1.L. "Passenger Rail Service" means long distance, intercity rail service, and commuter rail service to the extent such service is authorized by state and federal law.

1.M. "Rail Board" means the Board established pursuant to section 4 of this Agreement as the governing body of the Commission.

1.N. "Treasurer" means the Treasurer of the County and of the Commission.

## 2. STATEMENT OF PURPOSE

The Parties have joined together to establish the Commission for the following reasons:

2.A. The population demographics, air quality designations, and travel demand patterns of County have established links between the Central Valley, Sacramento, and the Metropolitan San Francisco Bay Area.

2.B. Some highways and major arterials within and between these jurisdictions are currently operating under unacceptable conditions and will continue to operate unacceptably in the future, even with all highway and transit planned improvements. Concurrently, recent air quality and energy conservation legislation discourage the use of single occupant automobiles and encourage the use of mass transit and other alternative modes of travel.

2.C. The preservation and improvement of the rail infrastructure for passenger and freight rail service will accrue regional economic and environmental benefits.

2.D. The City Councils, the Board of Supervisors, and the COG Board have jointly examined the many issues associated with rail service and have expressed common goals and objectives. Advanced planning studies have evolved into projects and are now focused on timely project management, interjurisdictional coordination, and the implementation of Passenger Rail Service.

2.E. Coordinated political and administrative efforts are necessary to resolve issues, advance funding requests, and to keep projects and programs on schedule.

### 3. ESTABLISHMENT OF THE COMMISSION

3.A. Upon the effective date of this Agreement, the Parties hereto hereby establish the Commission, as a public entity separate and distinct from its member entities, as the agent to exercise the common powers provided for in this Agreement and to administer or otherwise execute this Agreement.

3.B. The Commission, shall function as the regional representative for rail transportation for the purpose of acting upon any appropriate proposals which may be presented to it for consideration and for transmission of proposed recommendations to federal, state, regional, and local agencies.

### 4. RAIL BOARD

4.A. The Commission shall be governed by the Rail Board which shall be comprised of five voting Commissioners, all of which shall be elected officials of a city council or board of supervisors within San Joaquin County.

4.B. Ex-Officio members may be appointed by the Rail Board.

4.C. Appointments of the voting members, except the voting members as may be added pursuant to section 16 of this Agreement, shall be recommended by the Executive Committee of the COG Board from a pool of candidates consisting of one nominee from each Party, and appointed by the COG Board, and shall serve

at the discretion of the COG Board.

4.D. The voting members, except the voting members as may be added pursuant to section 16 of this Agreement, shall reside within the County and shall serve for a period of four (4) years, except that the initial voting members shall, by lot, choose two of their membership to serve two (2) years, and one (1) to serve three (3) years. In the event a voting member shall cease to be an elected official as required by Section 4.A., his or her term on the Rail Commission shall immediately terminate, and a new voting member shall be appointed in accordance with Section 4.C.

4.E. A quorum for conducting all matters of business shall be a majority of the voting members. The affirmative vote of at least a majority of the quorum present shall be required for the approval of any matter (unless a greater number is required by any resolution, ordinance or statute).

4.F. The Rail Board shall adopt rules of procedure and shall establish a time and place for regular Rail Board meetings. All meetings shall be conducted in accordance with the Ralph M. Brown Act, California Government Code, section 54950 et seq.

4.G. The Rail Board may establish committees and subcommittees from time to time as needed.

4.H. The By-laws of the Commission shall be those annexed to this Agreement marked exhibit "A".

## 5. POWERS AND FUNCTIONS

5.A. The Commission shall have the common power of the Parties hereto to plan, to establish, and to operate passenger rail service within the County and to other counties, purchase rolling stock including cars and locomotives, acquire railroad sites and stations in conjunction with San Joaquin County or the city or cities benefitted or affected thereby, operate rail stations, and to carry out all other activities necessary to provide passenger rail service for the benefit of the people of the County, both in and out of the County boundaries, and in the exercise of that power, the Commission is authorized in its own name to:

5.A.1. Employ an executive director as the chief administrative officer of the Commission;

5.A.2. Employ agencies and employees and contract for professional services;

5.A.3. Make and enter into contracts;

5.A.4. Acquire, hold and convey real and personal

property;

5.A.5. Incur debts, obligations and liabilities;

5.A.6. Accept contributions, grants or loans from any public or private agency or individual, or the United States, the State of California or any department, instrumentality, or agency thereof, for the purpose of financing its activities;

5.A.7. Invest money that is not needed for immediate necessities, as the Rail Board determines advisable, in the same manner and upon the same conditions as other local entities in accordance with section 53601 of the California Government Code;

5.A.8. Have appointed members and ex-officio members of the Rail Board serve without compensation from the Commission, except that members of the Rail Board may be reimbursed for all reasonable expenses and costs relating to attendance at Commission meetings or other Commission business;

5.A.9. Do all other acts reasonable and necessary to carry out the purposes of the members of the Commission;

5.A.10. Sue and be sued, in its own name only, but not in the name or stead of any Party; and

5.A.11. To exercise any and all other powers as may be provided for in California Government Code section 6547.

5.B. The powers to be exercised by the Commission are subject to such restrictions upon the manner of exercising such powers as are imposed upon the County in the exercise of similar powers. The Commission shall be held strictly accountable for all funds received, held and disbursed by it.

## 6. EXECUTIVE DIRECTOR

The Rail Board may select an Executive Director. If an Executive Director is chosen, he or she shall serve at the pleasure of and upon the terms prescribed by the Rail Board, and his or her powers and duties shall include the following:

6.A. Serving as Secretary to the Commission;

6.B. Keeping accurate and sufficient records of all proceedings of the Commission;

6.C. Receiving and transmitting all Commission correspondence;

6.D. Keeping a record and ascertaining the qualifications of each duly authorized representative;

6.E. Maintaining files for all reports;

6.F. Directing and coordinating the work of the Regional Rail Commission;

6.G. Preparing and administering the Commission's annual budget and work Program;

6.H. Maintaining a record of all financial transactions;

6.I. Making an annual report covering the business of the Commission during the preceding year;

6.J. Transmitting to his/her successor all books and records of the Commission in his/her possession;

6.K. Employing, supervising, and terminating employees subject to policies and procedures adopted by the Commission; and

6.L. Other duties as are usually incidental to the office of Executive Director.

#### 7. FINANCING

7.A. The Commission's fiscal year shall be July 1 through June 30.

7.B. Annually, the Commission shall prepare a budget for the ensuing fiscal year to commence on July 1. When adopted by the Rail Board, the budget shall serve as the approved budget for the fiscal year in carrying out the tasks within the approved work program for the year. Any use of amendments of the budget shall be at the sole discretion of the Commission.

7.C. A Party in the exercise of the reasonable discretion of its governing body, may provide support for the Commission, its staff, and its professional consultants, including providing quarters, janitorial services and maintenance, supplies, printing and duplication, postage, telephone services, transportation services, and the professional and technical assistance as may be necessary to enable the Commission to perform its responsibilities. All assistance shall be provided on an at-cost basis.

7.D. The Commission shall apply for available state federal, regional, and local support funds, and shall make new and additional applications from time to time as appropriate. If deemed necessary, the Rail Board may also establish and collect filing and processing fees in connection with matters to be considered by it.

8. TREASURER

8.A. The Treasurer of the County shall be the Treasurer of the Commission.

8.B. The Treasurer shall:

8.B.1. Receive and receipt all money of the Commission and place it in the treasury of the County to the credit of the Commission.

8.B.2. Be responsible upon the Treasurer's official bond for the safekeeping and disbursement of all Commission money held by the Treasurer.

8.B.3. Pay any sums due from the Commission, from the Commission's funds held by the Treasurer or any portion thereof, upon warrants of the Auditor-Controller designated herein.

8.B.4. Verify and report in writing as soon as possible after the first day of July, October, January, and April of each year to the Commission the amounts of monies the Treasurer holds for the Commission, the amount of receipts since the Treasurer's last report, and any interest accrued to those funds.

8.B.5. The Commission shall reimburse the County for the cost of services provided by the Treasurer to the Commission upon an at-cost basis.

9. AUDITOR-CONTROLLER

9.A. The Auditor-Controller of the County shall be the Controller for the Commission.

9.B. The Auditor-Controller shall draw warrants to pay demands against the Commission when the demands have been approved by the Rail Board and/or the Rail Board Executive Director. The Controller shall be responsible on the Controller's official bond for the Controller's approval of disbursements of the Commission money.

9.C. The Controller shall keep and maintain records and books of account on the basis of generally accepted accounting practices. The books of account shall include records of assets, liabilities, and contributions made by each Party to this Agreement.

9.D. The Controller shall make available all the financial records of the Commission to a certified public accountant or public accountant contracted by the Commission to make an annual audit of the accounts and records of the



Commission. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under section 26909 of the California Government Code and shall conform to generally accepted auditing standards.

9.E. The Commission shall reimburse the County for the cost of services provided by the Controller to the Commission upon an at-cost basis.

#### 10. BOND REQUIREMENTS

The Executive Director and such other persons employed by the Commission as may be designated by the Rail Board, shall file with the Rail Board an official fidelity bond in a penal sum determined by the Rail Board as security for the safekeeping of the Commission's property entrusted to the employee. However, if the Executive Director or other such persons designated are already bonded by another agency, no additional bonding shall be required by this section. Premiums for any bonds required under this section shall be paid by the Commission.

#### 11. PARTIES' LIABILITY

The debts, liabilities and obligations of the Commission shall not be debts, liabilities or obligations of the Parties either singly or collectively.

#### 12. ASSIGNABILITY

With the approval of, and upon the terms agreed upon by, the governing body of each Party to this Agreement, all or any of the rights and property subject to this Agreement may be assigned to further the purpose of this Agreement. Provided, however, no right or property of the Commission shall be assigned without compliance with all conditions imposed by any state or federal entity from whom Commission has received financial assistance.

#### 13. WITHDRAWAL OF A PARTY

A Party to this Agreement may, at any time, withdraw from the Commission, following 90 days' notice to the Commission and all other members of the Commission, by resolution of intent to withdraw adopted by the governing board of the withdrawing Party. Unless the withdrawing Party and the Rail Board specifically mutually agree to the contrary, a withdrawing Party shall have no right to, or interest in, any of the assets of the Commission.

#### 14. TERMINATION AND DISSOLUTION

14.A. This Agreement shall continue in force without specific term, except as otherwise provided herein.

14.B. If, at any time, the County of San Joaquin and the incorporated cities therein, which are members of the Commission represent less than the County and a majority of the cities representing a majority of the population of the incorporated areas residing within the area of the County, based upon the latest California Department of Finance estimate of population, the Commission shall be deemed disestablished and this Agreement shall cease to be operative except for the purpose of payment of any obligations theretofore incurred.

14.C. If this Agreement is terminated, all real and personal property owned by the Commission shall be distributed to the federal, state or local funding agency or Party to this Agreement that supplied the property or whose funding provided for the acquisition of the property unless other distribution is provided by law. Should the origin of any real or personal property be undeterminable, that property shall be disbursed to the Parties to this Agreement in proportion to the population of each jurisdiction as delineated in the latest California Department of Finance estimate of population.

14.D. In the event of termination if there are not sufficient unencumbered funds which are a part of the assets of the Commission available to pay for the costs of dissolution, the costs of dissolution above available funds shall be borne by the Parties to this Agreement in proportion to the population of each jurisdiction as delineated in the latest California Department of Finance estimate of population.

14.E. This Agreement shall not terminate until all property has been distributed in accordance with this section.

#### 15. RETURN OF SURPLUS FUNDS

Upon termination of this Agreement, any surplus money on hand shall be returned to the federal, state or local agency or the Party to this Agreement that provided the funds. Should the origin of any funds be undeterminable, the funds shall be disbursed to the Parties to this Agreement in proportion to the population of each jurisdiction as delineated in the latest California Department of Finance estimate of population.

#### 16. ADDITIONAL MEMBERS

16.A. In addition to those powers specified in this Agreement, the Commission upon a majority vote of the Rail Board, shall have the power to amend the Agreement and By-laws to add one or more public agencies, with the exception of newly incorporated cities within San Joaquin County, authorized by California Government Code section 6500 et seq., to enter into a joint exercise of powers agreement as a voting or non-voting Member to the Agreement, including the power to change this Agreement and the By-laws to adjust the composition of the Rail

Board's membership, provided that the Rail Board may not alter the composition of the Rail Board so that the representatives from the San Joaquin County area have less than a majority of the votes on the Rail Board.

16.B. Any newly incorporated city in San Joaquin County may elect to be a Party to this Agreement upon a majority vote of the city council. The Rail Board's approval shall not be required, but the newly incorporated city shall execute a copy of this Agreement and be bound by its terms.

16.C. Each newly added member public agency shall:

16.C.1. Be a public agency;

16.C.2. Be a public agency whose powers include the ability to utilize, regulate, construct and facilitate the use of rail transportation;

16.C.3. Have full rights and responsibilities as a member of the Commission;

16.C.4. Pay fees, if any, as prescribed by the Rail Board, to be charged for the public agency's participation in financing the Commission.

#### 17. SUCCESSORS

This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the Parties.

#### 18. RECORDS

The Treasurer and the Auditor-Controller shall have charge of, handle and have access to all accounts, funds and money of the Commission and all records of the Commission relating thereto; and the Secretary shall have charge of, handle and have access to all other records of the Commission.

#### 19. SEVERABILITY

Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the Agreement which the Parties intended to enter into in the first instance.

20. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed will be deemed to be an original and all of which, taken together, will be deemed to be one and the same instrument.

21. EFFECTIVE DATE OF AGREEMENT

This Agreement shall become effective when the County and a majority of the cities representing a majority of the population of the incorporated areas in the County, based upon the latest population estimates of the California Department of Finance, sign this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers as of:

ATTEST: \_\_\_\_\_  
Clerk of the Board of Supervisors  
of the County of San Joaquin,  
State of California

COUNTY OF SAN JOAQUIN, a  
political subdivision of  
the State of California

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Chairman  
Board of Supervisors,  
"County"

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Escalon

CITY OF ESCALON, a  
municipal corporation of  
the State of California

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor  
City of Escalon

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Lathrop

CITY OF LATHROP, a  
municipal corporation of  
the State of California

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor  
City of Lathrop

Date: \_\_\_\_\_

\*\*\* SIGNATURES CONTINUED ON NEXT PAGE \*\*\*

ATTEST: \_\_\_\_\_  
City Clerk of the City of Manteca

CITY OF MANTECA, a  
municipal corporation of  
the State of California

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor  
City of Manteca

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Lodi

CITY OF LODI, a  
municipal corporation of  
the State of California

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor  
City of Lodi

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Ripon

CITY OF RIPON, a  
municipal corporation of  
the State of California

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor  
City of Ripon

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Stockton

CITY OF STOCKTON, a  
municipal corporation of  
the State of California

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor  
City of Stockton

Date: \_\_\_\_\_

\*\*\* SIGNATURES CONTINUED ON NEXT PAGE \*\*\*

ATTEST: \_\_\_\_\_  
City Clerk of the City of Tracy

CITY OF TRACY, a  
municipal corporation of  
the State of California

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor  
City of Tracy

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Assistant County Counsel

By: \_\_\_\_\_  
City Attorney for the  
City of Escalon

By: \_\_\_\_\_  
City Attorney for the  
City of Lathrop

By: \_\_\_\_\_  
City Attorney for the  
City of Lodi

By: \_\_\_\_\_  
City Attorney for the  
City of Manteca

By: \_\_\_\_\_  
City Attorney for the  
City of Ripon

By: \_\_\_\_\_  
City Attorney for the  
City of Stockton

By: \_\_\_\_\_  
City Attorney for the  
City of Tracy

RESOLUTION NO. 95-44

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING THE CREATION OF A JOINT POWERS AGENCY  
FOR THE SAN JOAQUIN COUNTY REGIONAL RAIL COMMISSION  
AND DESIGNATING THE CITY'S REPRESENTATIVE THERETO

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WHEREAS, the San Joaquin County Council of Governments has heretofore approved in concept the formation of the San Joaquin County Regional Rail Commission Joint Powers Agency, comprised of the County of San Joaquin, and the cities of Escalon, Lathrop, Manteca, Lodi, Ripon, Stockton and Tracy; and

WHEREAS, the parties to this agreement are authorized, pursuant to California Government Code §6500 et. seq. to enter into such agreements for the creation of joint powers agencies; and

WHEREAS, the purpose of this Joint Powers Agency is to facilitate, by appropriate means, passenger rail service in and around San Joaquin County and the surrounding areas; and

WHEREAS, the County of San Joaquin and the incorporated cities enumerated above are authorized, pursuant to California Public Utilities Code §§99234.9, 99260.5 and 99400 to undertake the activities described in the attached Joint Powers Agreement;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Lodi that:

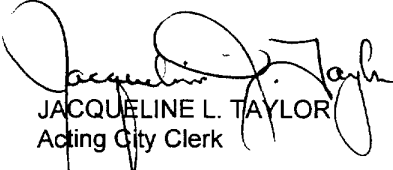
1. The City adopts, endorses and approves entering into the proposed Joint Powers Agreement, attached hereto and incorporated by reference, and authorizes the Mayor of Lodi to execute on behalf of the City all necessary documents;
2. Nominates and designates Phillip Pennino as the City's representative to serve on the Rail Commission consistent with the terms of Paragraph 4 of the Joint Powers Agreement.

Dated: April 5, 1995

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I hereby certify that Resolution No. 95-44 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 5, 1995 by the following vote:

AYES:	Council Members - Davenport, Pennino, Sieglock, Warner and Mann (Mayor)
NOES:	Council Members - None
ABSENT:	Council Members - None

  
JACQUELINE L. TAYLOR  
Acting City Clerk